

MONTANA LEGISLATIVE HISTORY

Chapter 591 19 95

Bill H 358 S _____ Original bill & history ☒ C

H. Committee on Local Government

Hearing Date(s) Feb 09 ☒ C

2-14 ☒

Feb 16 ☒ C

_____ C

_____ C

Date Out _____ C

S. Committee on Local Government

Hearing Date(s) Mar 21 ☒ C

Mar 23 ☒ C

_____ C

_____ C

Mar 24 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

Conference Committee

Apr 09

1/27	FIRST READING		
1/27	REFERRED TO JUDICIARY		
1/28	FISCAL NOTE REQUESTED		
2/03	FISCAL NOTE RECEIVED		
2/03	FISCAL NOTE PRINTED		
2/13	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED		
2/18	2ND READING PASSED	92	3
2/20	3RD READING PASSED	96	4
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO JUDICIARY		
3/14	HEARING		
3/15	COMMITTEE REPORT—BILL CONCURRED		
3/24	2ND READING CONCURRED	39	8
3/25	3RD READING CONCURRED	41	7
	RETURNED TO HOUSE		
3/27	SIGNED BY SPEAKER		
3/28	REVISED FISCAL NOTE REQUESTED		
3/28	SIGNED BY PRESIDENT		
3/28	TRANSMITTED TO GOVERNOR		
3/28	REVISED FISCAL NOTE RECEIVED		
3/31	REVISED FISCAL NOTE PRINTED		
3/31	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 306		
	EFFECTIVE DATE: 03/31/95		

HB 358 INTRODUCED BY TREXLER, ET AL.
CHANGE PROTEST REQUIREMENTS FOR ZONING ADOPTION

1/27	INTRODUCED		
1/27	FIRST READING		
1/27	REFERRED TO LOCAL GOVERNMENT		
2/09	HEARING		
2/14	TABLED IN COMMITTEE		
2/17	COMMITTEE REPORT—BILL PASSED		
2/18	2ND READING PASSED	66	33
2/21	3RD READING PASSED	74	25
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO LOCAL GOVERNMENT		
3/21	HEARING		
3/25	COMMITTEE REPORT—BILL CONCURRED		
3/29	2ND READING CONCURRED AS AMENDED	50	0
3/30	3RD READING CONCURRED	39	11
	RETURNED TO HOUSE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS NOT CONCURRED	93	2
4/05	CONFERENCE COMMITTEE APPOINTED		
4/07	HEARING		
4/07	CONFERENCE COMMITTEE REPORT NO. 1		
4/08	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	92	6
4/10	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	79	19
	SENATE		
4/06	CONFERENCE COMMITTEE APPOINTED		
4/07	CONFERENCE COMMITTEE REPORT NO. 1		
4/08	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0

4/10	3RD READING CONFERENCE COMMITTEE REPORT		
	NO. 1 ADOPTED	41	8
4/11	SIGNED BY SPEAKER		
4/12	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
5/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 591		
	EFFECTIVE DATE: 10/01/95		

HB 359 INTRODUCED BY SIMPKINS
ALLOW LICENSURE OF OPTOMETRISTS BASED ON ENDORSEMENT OF CREDENTIALS

1/27	INTRODUCED
1/27	FIRST READING
1/27	REFERRED TO BUSINESS & LABOR
2/02	HEARING
2/03	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

HB 360 INTRODUCED BY QUILICI, ET AL.
PROVIDE EXCEPTION TO ORIGINAL COST RULE WHEN A PUBLIC UTILITY PURCHASES CERTAIN PROPERTY

1/27	INTRODUCED		
1/27	FIRST READING		
1/27	REFERRED TO TAXATION		
1/28	FISCAL NOTE REQUESTED		
2/01	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/02	HEARING		
2/03	COMMITTEE REPORT—BILL PASSED		
2/04	2ND READING PASSED	89	3
2/06	3RD READING PASSED	97	1
	TRANSMITTED TO SENATE		
2/07	FIRST READING		
2/07	REFERRED TO BUSINESS & INDUSTRY		
3/02	HEARING		
3/03	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/08	2ND READING CONCURRED	48	0
3/09	3RD READING CONCURRED	45	2
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	93	3
4/03	3RD READING AMENDMENTS CONCURRED	91	8
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 373		
	EFFECTIVE DATE: 04/12/95		

HB 361 INTRODUCED BY KADAS, ET AL.
PROHIBIT MUNICIPALITIES FROM ENACTING ZONING PROVISIONS THAT REGULATE NUMBER OF PERSONS WHO MAY RESIDE IN A DWELLING BASED SOLELY ON THE RELATIONSHIP OF THE PERSONS

1/27	INTRODUCED
1/27	FIRST READING
1/27	REFERRED TO LOCAL GOVERNMENT
2/09	HEARING

House BILL NO. 358

INTRODUCED BY

Cliff Triple, Brainard

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PROTEST REQUIREMENTS FOR ZONING ADOPTION; AND AMENDING SECTION 76-2-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-205, MCA, is amended to read:

"76-2-205. Procedure for adoption of regulations and boundaries. The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district ~~shall~~ must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice ~~shall~~ must state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) the time and place of the public hearing;

(d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make ~~such~~ any revisions or amendments as that it may deem determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice ~~shall~~ must state:

1 (a) the boundaries of the proposed district;

2 (b) the general character of the proposed zoning regulations;

3 (c) that the proposed zoning regulations are on file for public inspection at the office of the county
4 clerk and recorder;

5 (d) that for 30 days after first publication of this notice, the board of county commissioners will
6 receive written protests to the creation of the zoning district or to the zoning regulations from persons
7 owning real property within the district whose names appear on the ~~last-completed~~ last-completed
8 assessment roll of the county.

9 (6) Within 30 days after the expiration of the protest period, the board of county commissioners
10 may in its discretion adopt the resolution creating the zoning district ~~and/or~~ or establishing the zoning
11 regulations for the district; ~~but~~ However, if 40% of the freeholders within ~~such~~ the district whose names
12 appear on the ~~last-completed~~ last-completed assessment roll or if freeholders representing 50% of the titled
13 property ownership ~~shall~~ have protested the establishment of the district or adoption of the regulations, the
14 board of county commissioners ~~shall~~ may not adopt the resolution and ~~no~~ a further zoning resolution ~~shall~~
15 may not be proposed for the district for a period of 1 year."

16 -END-

HOUSE LOCAL GOVERNMENT

Page 3

BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0289	SOFT, LOREN	1/20	1/31	ELIMINATE 12% UTILITY RATE INCREASE LIMIT ON MUNICIPAL UTILITIES	PASS AS AMENDED	2/14	VOTE: 12-6	2/15
HB0303	DENNY, MATT	1/20	1/26	EXTEND NONPARTISAN NATURE, PROHIBIT SEEKING OTHER OFFICES TO LOCAL GOVT	TABLED ON	02/14	VOTE: 18-0	
HB0308	EWER, DAVID	1/21	2/02	REVISE WATER\SEWER LAW RE: RATES, TERMINATION, COLLECTION, & ISSUING BONDS	PASS AS AMENDED	2/16	VOTE: 12-6	2/17
HB0358	TREXLER, CLIFF	1/27	2/09	ZONING PROTEST CRITERIA -- MODIFICATIONS	DO PASS	2/16	VOTE: 12-6	2/17
HB0361	KADAS, MIKE	1/27	2/09	PROHIBIT ZONING REGS LIMITING PERSONS IN DWELLING BASED ON THEIR RELATIONSHIP	TABLED ON	02/14	VOTE: 12-6	
HB0393	GRADY, ED	2/01	2/07	REVISE LAWS RELATING TO SUPERVISION OF COUNTY ROADS	DO PASS	2/7	VOTE: 18-0	2/09
HB0397	SQUIRES, CAROLYN	2/01	2/09	PROHIBIT LOCAL GOV'T REQUIRING SEWER HOOK-UP BASED ON DISTANCE TO SEWER LINE	TABLED ON	02/14	VOTE: 12-6	
HB0398	SQUIRES, CAROLYN	2/01	2/09	PROHIBIT CITY OBTAINING WAIVER OF PERSON'S RIGHT TO PROTEST ANNEXATION	ADVERSE RPT ADOPT	2/14	VOTE: 14-4	2/20
HB0417	MILLS, NORM	2/03	2/14	ALLOW CITY'S GOVERNING BODY TO DECIDE NUMBER OF CITY JUDGES IN CITY COURT	DO PASS	2/14	VOTE: 18-0	2/15
HB0421	EWER, DAVID	2/06	2/14	REVISE COUNTY HOSPITAL LAWS	DO PASS	2/14	VOTE: 18-0	2/15
HB0425	KEENAN, BOB	2/03	2/14	REQUIRE PAYMENT OF PROPERTY TAXES BEFORE FINAL APPROVAL OF SUBDIVISION PLAT	DO PASS	2/14	VOTE: 17-1	2/15
HB0438	BRAINARD, MATT	2/04	2/14	REQUIRE CITY ANNEXATION BE APPROVED BY VOTERS OF CITY & AREA BEING ANNEXED	TABLED ON	02/14	VOTE: 13-5	

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By VICE CHAIRMAN JACK HERRON, on February 9,
1995, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. David Ewer, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Ellen Bergman (R)
Rep. John C. Bohlinger (R)
Rep. Matt Brainard (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Bob Keenan (R)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Debbie Shea (D)
Rep. Joe Tropila (D)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Evelyn Burris, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 397; HB 398; HB 358; HB 361
Executive Action: None

CHAIRMAN BILL BOHARSKI attended the meeting via speaker phone.

costs for a septic system being higher than a hook up to a city service, and the higher density allowances when on a sewer system. In most of these situations the landowner would not desire, and in the failed septic system, be able to wait until the public process for ordinances, etc., are completed, which is usually in excess of 60 days. This bill abdicates the authority of the district or entity to place conditions on the provision of a product or service. EXHIBIT 28

Informational Testimony: None

Questions From Committee Members and Responses:

REP. BOHLINGER asked John Shontz, Montana Association of Realtors, why they support this bill. Mr. Shontz explained the requests of developers regarding this issue and said many times, they have no choice.

REP. BOHARSKI questioned being 175 feet outside of a service area and being required to hook onto a system. Bruce Bender responded this is not extended service unless requested.

Alec Hanson also responded saying the cities are not going to build twenty miles out and the builders can waive this right.

REP. BRAINARD questioned Pari LeCoure regarding annexation of the Rattlesnake area and if they received any savings after annexation. Ms. LeCoure explained the frustration of losing their fire station after annexation leaving 760 homes insecure.

Closing by Sponsor:

REP. SQUIRES made her closing remarks and stressed this is not just a Missoula issue.

{Tape: 2; Side: A; Approx. Counter: 21.1; Comments: Put new battery in SONY.}

HEARING ON HB 358

Opening Statement by Sponsor:

REP. CLIFF TREXLER, HD 59, presented HB 358 which is an act changing the protest requirements for zoning adoption and amending Section 76-2-205. REP. TREXLER explained the bill and said this is a housekeeping bill and not a zoning bill. It adds to the methods of protest for a proposed zone district.

Proponents' Testimony:

Mike Meuli, Meuli Ranch, Dayton, representing himself and the Western Montana Stockman's, with 500 members in six Western counties, said HB 358 provides for a balance that is currently absent in Montana's zoning statute. Under current law, the scales weigh heavily in favor of the smaller landowner. In the typical zoning proposal there are usually two groups of landowners involved. One is the small acreage owners and the other consists of larger property owners. The small landowners outnumber the large landowners by a wide margin. The small landowners come to the negotiating table knowing that if they don't like the final plan that they can raise the necessary 40% of the landowners to protest and stop the zoning proposal. They also know the larger landowners have no power to back up their positions. EXHIBIT 29

Mr. Meuli said he has no plans to subdivide his ranch and would like to continue to provide access for hunting, hiking and other recreation for Montana sportsmen. He is concerned that the current law is pushing him in the other direction and it is apparent that the only way to assure that his property rights and land values are not zoned away is to be the first one in his area to subdivide. The current zoning law is unfair to the people most affected by it and needs the balance provided in HB 358. With this legislation both parties would come to the table to bargain in good faith and the decision would be left in the hands of the people where it needs to be.

Don Allen, representing Montana Wood Products Association, spoke in support of HB 358. People moving into rural areas have the desire to maintain the "rural character." This leads to an effort to plan and zone the local areas. Planning and zoning can be beneficial. It is detrimental if all property owners are not treated equitably, especially those who own large tracts of land. The current law is biased to favor the number of landowners with no regard with the amount of land they own. Mr. Allen reiterated previous testimony in favor of HB 358 and said this bill will encourage small landowners to work with large landowners in good faith whenever they initiate the zoning plan. This would not remove the protest provision for smaller landowners. He urged the committee to give a do pass.

Candace Torgeson, representing the Montana Cattle Women's Association and the Montana Stock Growers Association, said both groups support HB 358 and feel it will encourage zoning plans to address the concerns of the popular vote and also the major landowners. This will benefit the entire community.

John Shontz, Montana Association of Realtors, said they also support HB 358 and asked for a do pass.

REP. PAUL SLITER, HD 76, Kalispell, stated for the record he is a proponent of HB 358.

Opponents' Testimony:

Paul Johnson, Montana City, state agent, Montanans For A Healthy Future, spoke in opposition of HB 358 stating that for 200 years it has been a bedrock principle of American democracy that the power resides in the majority of the citizens. This bill violates that principle. The existing statute works and protects the principle of rule by the majority of the people. The decision to regulate is made by the elected representatives of the people at the local level and the county commissioners after input by the public at public hearings. This bill would destroy the careful balance that has been reached in the existing laws and would create a tyranny of the minority.

Mr. Johnson said the freeholders are the people who own land in the district and if 40% object to a zoning proposal, since zoning is going to affect them and their property, it makes sense for them to overturn a decision as a representative of democracy. If the power is transferred to signing representative of democracy to 50% of the title property ownership, this would transfer the power of people to property. This would preserve the power of the small minority. Under this bill, a single freeholder as opposed to 40% of the freeholders, can end the zoning proposal which is supported by an entire community including the elected representatives of the community. This bill is undemocratic in the extreme. The existing law contains a careful balance that has worked well.

Ted Lange, Northern Plains Resource Council (NPRC), spoke in opposition to HB 358 stating they believe it could create a serious barrier to citizens' ability to protect their property values through zoning, and also because they believe this bill is fundamentally undemocratic. Zoning is an important mechanism for people to protect their property values. This bill would create an insurmountable barrier by giving large landowners veto power over zoning plans supported by the majority of their neighbors.

EXHIBIT 30

Mr. Lange stated many members in the Gardiner area have been deeply concerned for years about the ill-conceived development activity of the Church Universal and Triumphant. The Paradise Valley was not given its name because it looked like a transplanted Los Angeles suburb. As the church has brought more and more new people into the area, its development activities have been steadily taking the valley in that direction. The church has been notorious for exploiting every weakness in Montana's land use laws. Not only have they built, and proposed to build, extensive subdivisions, their subdivisions come with bomb shelters and underground storage tanks. In 1990, one of the tanks ruptured, spilling 30,000 gallons of gasoline and diesel. Ms. Lange said the bottom line is that the church has bought up a lot of land and as a result, HB 358 could make it impossible for local citizens to pass any kind of zoning to protect their

property values, their tourist-based economy and their environment.

NPRC believes that if local citizens find it necessary to pass zoning regulations requiring the church to act responsibly in the development of its property, they should have that right. They urged the committee to vote no on HB 358.

Glenna Obie, Member, Board of County Commissioners, Jefferson County, said she has lived in Montana all her life and her family owns a ranch in the Bear Paw Mountains, in northcentral Montana. Ms. Obie reiterated previous testimony in opposition to HB 358 and told about the steps Jefferson County has been through the past two years in the process of considering two different land use proposals. EXHIBIT 31

Melissa Case, Montanans Against Toxic Burning, opposed HB 358 and reiterated previous testimony.

{Tape: 2; Side: A; Approx. Counter: 50.4;..}

Gordon Morris, Director, Montana Association of Counties (MACO), agreed with previous testimony in opposition and urged a do not pass consideration.

Anne Hedges, Montana Environment Information Center (MEIC), agreed with Ms. Obie's testimony and urged a do not pass consideration.

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SHIELL ANDERSON questioned Mr. Johnson about what the Montanans for a Healthy Future Organization is. Mr. Johnson responded they are a small non-profit citizens' organization that advocates on public health issues. REP. ANDERSON asked if there was a proposed zoning in Jefferson County that would take into the mill and change what it does. Mr. Johnson responded yes, the zoning plan they have been working with is a local vicinity plan with the Jefferson County Comprehensive Plan. He explained what the area encompasses and the issues for the local vicinity plan. This plan limits the ability of hazardous waste facilities to be located near schools and residences.

REP. ANDERSON asked what is equitable about a few people being able to encompass a large ranch and dictate what will go on. Even if this bill were to pass, they would still be able to control the size of the area inhabited by people that want to control the rest of the area. Mr. Johnson explained that their problem with the bill is it removes persons within the regulated area to protest the zoning regulation enacted or passed by the county commissioners. It allows a significant minority in the community to say no to local land use provisions. Under this

bill, opportunity is going to go to acreage rather than people. Fifty percent of the acreage represented within the zoning district can stand up even if it represents a single landowner.

REP. ANDERSON discussed the problem of private property rights happening in Bozeman and said the people want to control open space and still control the amount of land they currently occupy. He asked about the fairness of this. Mr. Johnson responded he believed this bill attacks private property rights by denying smaller land holders their property rights. The ultimate result being a very undemocratic situation where a single person can stymie the efforts of an entire community as far as their property is concerned.

Closing by Sponsor:

REP. TREXLER closed by saying he believed all land owners should be protected and have some guarantees. The process is not impinging on anyone's right to do with their land what they want. All the landowners can get together and zone their land.

HEARING ON HB 361

Opening Statement by Sponsor:

REP. MIKE KADAS, HD 66, Missoula, said this bill is an act prohibiting municipalities from enacting zoning provisions that regulate the number of persons who may reside in a dwelling based solely on the relationship of the persons, and amending Section 76-2-304. REP. KADAS attested that this is a problem particularly in university towns. The problem is the students ban together and try to reduce costs by living together. Legislators also do this for the same reasons. The problem is some of the neighborhoods have had problems. This bill attempts to prohibit prejudging all students and discriminating against all students, not just the problem students. This type of ordinance creates problems with other laws. Property managers run into the great difficulty of having to abide by one law that says they cannot discriminate and a city ordinance that says they must.

Vicki Amundson, Missoula County Association of Realtors (MCAR), said any attempt to control housing intensity by a family definition does not accomplish this objective. It puts real estate brokers and property owners in violation of the federal fair housing laws. Mr. Amundson reiterated testimony by REP. KADAS. Discriminating against unrelated people who wish to rent a three bedroom home may result in the federal government imposing fines. MCAR receives calls from the office of community development about people complaining of non-compliance with zoning and for these reasons they support HB 361.

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 2-9-85

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman			
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee			
Rep. Norm Mills	✓		
Rep. Debbie Shea			
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		



EXHIBIT: 29
DATE 2-9-95
HB 358

February 9, 1995

Re: HB 358

"Good" zoning is a balance between the negative effects of private property rights restrictions and the benefits of wise land use planning. I stand before you as a supporter of "good" zoning. Zoning that is balanced.

House Bill 358 provides for a balance, that is currently absent, in Montana's zoning statute. Under current law the scales weigh very heavily in favor of the smaller landowner. And this when the smaller landowner has little or nothing to lose in the zoning process while the larger landowners can and have been drastically effected by severe zoning restrictions.

It is inherent in the process that any zoning takes away some private property rights. However done in a fair and reasonable manner good zoning can actually enhance property values therefore mitigating the loss of control.

When looking at the typical zoning proposal there are usually two groups of landowners involved. One is the small acreage owners and the other consists of owners of the larger properties. Typically the small landowners outnumber the large landowners by a wide margin. Here is where the current law is out of balance. The small landowners come to the negotiating table knowing that if they don't like the final plan that they can raise the necessary 40% of the landowners to protest and stop the zoning proposal. They also come knowing the larger landowners have no power to back up their positions.

The Lake Mary Ronan zoning district in Lake County is an example of the zoning process working as it should and then being derailed. A cross section of landowners worked hard to come up with a fair proposal and did. Without getting into specifics there were several zones moving out from the lake with housing densities ranging from two acre lots to 40 acre lots with cluster development allowed. The Lake County General Plan allowed one acre density over the whole area. As you can see this zoning proposal increased the land restrictions greatly over the county general plan but was accepted as a reasonable compromise by most of the larger landowners. This proposal went through the hearing process and passed the Lake County Planning Board. However before the county commissioners took action a number of smaller

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landowners were convinced that they should protest in order to stop this proposal and put more severe restrictions on in a future zoning plan. The protest was successful and the zoning has been stopped. It is obvious that the next proposal is not going to be balanced and the larger landowners are going to suffer significant loss of property values because of it.

There are other examples that are even more extreme. In at least two cases all land that was not already divided into lots was zoned to a 40 acre density with no allowances for clustering. Zoning of this nature is very detrimental to land quality. If you travel western Montana and look at land that has been divided into 20 plus acre lots you will find nearly all of it either overgrazed or totally infested with noxious weeds. The very land that is supposed be protected by zoning will ultimately lie useless and unproductive. Instead of allowing new resident to purchase a reasonable size lot of say two acres or less, most zoning plans ultimately force people to own a larger acreage than they are able to properly manage. This leads to less agricultural base which with every ag dollar turning over seven times in the local communities and across the state amounts to a significant loss to Montana.

Current zoning trends amount to an end run around the subdivision law passed in the last session. Despite subdivision regulations the 20+ acre tracts are forced to continue with the resulting waste of land, damage to surrounding agricultural producers from increased weed invasion, and significant loss of revenue to our state's economy due to lack of agricultural base.

As a rancher in western Montana who has no plans to subdivide, and would like to continue to ranch and provide access for hunting, hiking and other recreation for Montana sportsman, I am concerned that the current law is pushing me the other direction. It is apparent that the only way to assure that my property rights and land values are not zoned away is to be the first one in my area to subdivide.

We need zoning as it allows people to get together and plan for the future of their area. However the current zoning law is unfair to the people most effected by it and needs the balance provided in House Bill 358. With this legislation both parties would come to the table to bargain in good faith and the decision would be left in the hands of the people where it needs to be. Ultimately good land use planning will prevail with all parties being treated fairly.

I thank you for you time and your consideration of this bill.

Sincerely,

Mike J. Meuli

Mike J. Meuli

Northern Plains Resource Council

EXHIBIT 30
DATE 2-9-95
HB 358

Testimony on HB358 House Local Government Committee 2/9/95

Mr. Chairman and members of the committee, my name is Ted Lange and I'm speaking on behalf of the Northern Plains Resource Council. NPRC is opposed to HB358 because we believe it could create a serious barrier to citizens' ability to protect their property values through zoning, and because we believe this bill is fundamentally undemocratic.

We believe zoning is an important mechanism for people to protect their property values. This bill would make it virtually impossible, in many instances, for citizens to do this. It would create an insurmountable barrier by giving large landowners veto power over zoning plans supported by the majority of their neighbors.

Specifically, we have many members in the Gardiner area who have for years been deeply concerned about the ill-conceived development activity of the Church Universal and Triumphant. The Paradise Valley was not given its name because it looked like a transplanted Los Angeles suburb. But as the church has brought more and more new people into the area, its development activities have been steadily taking the valley in that direction. The church has been notorious for exploiting every weakness in Montana's land use laws. And not only have they built, and proposed to build, extensive subdivisions; their subdivisions come with bomb shelters and underground storage tanks. In 1990, one of these tanks ruptured, spilling 30,000 gallons of gasoline and diesel.

The Paradise Valley is seriously threatened by the church's wanton development activity, and many of the citizens in the Gardiner area do not want their quality of life degraded. Moreover, they strongly believe that it's not just their quality of life that's threatened. Over-development of the Paradise Valley will threaten their property values as surely as it will threaten their air, land and water.

TESTIMONY BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE

My name is Glenna Obie. I am a member of the Board of County Commissioners of Jefferson County. And just so there is no mis-understanding, let me further note that I have been a Montanan all of my life and my family owns a ranch in the Bear Paw Mountains of north central Montana. I rise in opposition to House Bill 358.

I believe this legislation amounts to a theft of the democratic principles of majority rules and one person, one vote. In Montana, we have historically and purposely and for good reason, made zoning a difficult process. That's as it should be. Because zoning means that someone's ability to do whatever they want on and to their property is over-ruled in favor of the good of the community at large. So, specifying that 40% of the freeholders constitutes a large enough minority to prevent intended zoning is a logical correlary to majority rules. However, the new language allows that acres will vote, not people. One, two or a small handful of land owners who own the majority of the land in an area, will be able to completely control land use and planning, regardless of the needs of the community at large, what the majority of land owners have decided upon and in spite of the involved process that zoning and planning requires.

Let me just describe, briefly, some of the process underway in Jefferson County where two different local vicinity plans are under consideration. First, as the two year process of developing the County Comprehensive Plan. A process that by itself involved numerous public meetings and comment periods. Then the local citizens met and began working on a local vicinity plan. They held public meetings, worked to identify needs, held more public meetings, met in small groups, met with the planning board. The county planning board has held public meetings and made a recommendation. Finally, the county commission holds a public meeting, passes a resolution of intent and holds open a period of 30 days for additional public comment. One of the local vicinity plans finding its way through that process now was brought forward by a group of farmers and ranchers seeking to protect the rural and agricultural aspects of their area. Bill 358 would make the efforts of these local citizens worthless since anyone with a lot of money who buys up large chunks of property could basically veto the process at any point. The process, by its very nature protects all freeholders, and residents, not only the rich and powerful.

Would this legislation halt planning and zoning in Jefferson County? I believe it would. I would remind the committee that there are large landowners out there besides farmers and ranchers--some of them don't even live in Montana. I wonder if the proponents of this bill would be as enthusiastic about the bill if they were faced with the prospect that THEY would not be the biggest landowner in the area.

Once at a meeting held by the Helena Chamber of Commerce, I heard Ted Turner, the owner of CNN and thousands of acres of Montana land, comment that we should be careful in Montana, lest his wife's rich friends from California should buy our state and have their way with it. This opens that door a bit wider.

I'm reminded of the proverb about the dog who, carrying a bone across a

bridge, notices his own reflection in the water. His greed overcomes him and he drops his bone in a futile attempt to take the bone away from the dog he sees reflected up at him. Of course, he ends up with only a wet muzzle.

We have a process now that protects the rights of all citizens. Trying to tinker with it for the advantage of the rich and the largest property owners is a dangerous game which will, in the end, backfire. Kill HB 358 before it blows up in your hands.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JOEL BLUMENFELD

COMMITTEE

DATE 5-9-95

BILL NO. 358

SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Curtis Horton 6103 Longview Dr. Mslw.	City of Missoula		✓
Paul Johnson 18 Big Dipper Clancy MT 59634	Montanans For A Healthy Future LF Inc		✓
Pamela P. Collins 59601 2000 South Hills Rd. Helena	self		✓
JUDY BECK 10 Saddle Mtn Dr. Clancy MT	self		✓
Glennice Obie	Jeff. County		✓
Anne Hedges	MEIC		✓
Gordon Morris	MACo		✓
Red Lange	NPRC		✓
Linda Lee	MontPIRG		✓
Dan Allen	Mt. Wood Products Assoc	✓	
J. Shantz	MT ASSN GROWERS	✓	
L. DASBENDER	City of St. Falls		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visbcom.man

CS-14

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN WILLIAM BOHARSKI, on February 14,
1995, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. David Ewer, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Ellen Bergman (R)
Rep. John C. Bohlinger (R)
Rep. Matt Brainard (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Bob Keenan (R)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Debbie Shea (D)
Rep. Joe Tropila (D)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Evelyn Burris, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	HB 417; HB 421; HB 425; HB 438; HB 530
Executive Action:	HB 231 DO PASS
	HB 259 DO PASS
	HB 260 DO PASS
	HB 270 DO PASS AS AMENDED
	HB 289 DO PASS AS AMENDED
	HB 303 TABLED
	HB 358 TABLED
	HB 361 TABLED
	HB 397 TABLED
	HB 398 TABLED
	HB 417 DO PASS
	HB 421 DO PASS
	HB 425 DO PASS
	HB 438 TABLED
	HB 530 DO PASS AS AMENDED

EXECUTIVE ACTION ON HB 358

Motion: REP. BRAINARD MOVED HB 358 DO PASS.

Discussion:

REP. ANDERSON urged reconsideration to table this bill. He explained why he felt the bill was necessary and reiterated his testimony regarding the Bozeman area saying the people who have built around small tracks of farm ground because they want the open air and by doing so, the person that develops last loses out under present law. This is because he can be zoned in since they have the numbers in votes, even though they do not have the numbers in property. They can effectively cut him out of any development activity. If they are not the first ones to subdivide, they get left out. Under this bill, people who are proposing to zone are still able to zone the property they occupy.

CHAIRMAN BOHARSKI questioned the language regarding freeholder and property owner. Mr. Campbell responded that in this case, the use of the word "freeholder" only means real property owners and doesn't mean the resident tied to it.

Vote: Motion failed 8-10 with REPS. BOHARSKI, ANDERSON, BOHLINGER, BRAINARD, DENNY, FORBES, MCCULLOCH and MILLS voting yes.

Motion/Vote: REP. MILLS MOVED HB 358 TABLED. Motion carried.

EXECUTIVE ACTION ON HB 361

Motion: REP. BOHLINGER MOVED HB 361 DO PASS.

Discussion: REP. BOHLINGER explained the bill and said landlords are offered an opportunity to protect their property through a rental agreement.

REP. BRAINARD spoke in opposition of HB 361 stating the municipality has the right to zone single family housing. He explained his personal experience of what properties were like in Missoula prior to the bill. With passage of this bill, students will be extorted into packing into housing that eventually will cause them to become substandard.

REP. ANDERSON said this is an example of statewide zoning and these decisions should be left to local communities.

REP. BERGMAN said this same bill was dealt with two years ago and for the same reasons it was decided this is a local issue and local zoning and the bill was tabled.

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 2-14-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN WILLIAM BOHARSKI, on February 16,
1995, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. David Ewer, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Ellen Bergman (R)
Rep. John C. Bohlinger (R)
Rep. Matt Brainard (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Bob Keenan (R)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Debbie Shea (D)
Rep. Joe Tropila (D)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Evelyn Burris, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 261
Executive Action: HB 261 TABLED
HB 308 DO PASS AS AMENDED
HB 358 DO PASS
HB 129 RECONSIDERATION FAILED

HEARING ON HB 261

Opening Statement by Sponsor:

REP. WENNEMAR said this is an act allowing an incorporated
municipality or county to adopt an ordinance for rent
stabilization for rental spaces in mobile home parks. This bill

encourages participation in school board elections and district elections. REP. EWER said if there is a new water and sewer district they get to vote. Also, the bill says they can only charge the assessments on debt, on facility charges that have been voted by the people. People can make their case if they feel they are not benefited.

REP. ANDERSON addressed REP. HAGENER comments.

REP. KEENAN referred to page 5, line 8-9 and said the most important thing is they will be charging property for the availability of services and not just the use.

REP. HERRON asked about the time frame of the bill taking effect immediately instead of October. REP. EWER said it would be fine to make it October.

Vote: Motion carried 16-2 with REP. ANDERSON and REP. DENNY voting no.

EXECUTIVE ACTION ON HB 261

Motion: REP. LINDA MCCULLOCH MOVED HB 261 DO PASS.

Discussion: REP. JOHN BOHLINGER spoke in opposition to the bill and said he doesn't feel that rent stabilization or control is going to make more space available and it would be a poor policy for the state of Montana. There have to be incentives to bring developers into play.

REP. MCCULLOCH spoke in favor of HB 261 saying rent stabilization is a matter of local control option and how mobile home courts filled to capacity and the owners taking advantage knowing there are shortages and they have no where else to go and they continue to raise the rent.

REP. MILLS spoke in opposition saying rent control is a disincentive for the property owner to keep up his property. He said what needs to be done is change the zoning laws and make it so people can build more spaces which they would if zoning laws were changed.

REP. ANDERSON said he doesn't like artificial loss on the market system and it is unfair to single out mobile home park owners for rent control.

Motion/Vote: REP. ANDERSON MOVED TO TABLE HB 261. The motion carried 14-4 with REPS. HAGENER, MCCULLOCH, SHEA, and TROPILA voting no.

EXECUTIVE ACTION ON HB 358

Motion: REP. ANDERSON MOVED TO RECONSIDER HB 358.

Discussion:

REP. EWER spoke in opposition stating that he does not feel it's appropriate that small numbers of people who own large amounts of land should be able to have this significant say in the destiny of growth. The protection is to give 40% of the freeholders the right to set aside zoning plans for a year is adequate protection.

REP. MATT BRAINARD spoke in favor of HB 358 saying the issue to take into account is that we are faced with problems of growing communities. Lands outside the cities and problems with population densities are directly affected by who owns how much land and what they are going to do with it. He talked about owners of large parcels of land being forced to subdivide.

REP. EWER said he wanted to know the rationale of forced subsidizing to subdivide and asked REP. ANDERSON if it is because the zoning would allow for a different category and classification of land and having to pay a higher property tax even though it's had use.

{Tape: 1; Side: B}

REP. ANDERSON said the people penalized under the current system are the ones who don't develop first. To restrict developing ability, they might be inclined to develop while they can before the zoning area comes into effect. In Bozeman there are open fields among the houses and because the owner did not develop right away, he was left out. He pointed out that they are taking away democracy by allowing large property owners to prevent being drawn into the zoning districts in their entirety and this bill should be passed. He stated the committee talked about property rights during the hearing and the need to consider the large property owner as well as property rights of the people that want to tell him what he's going to do with that property.

REP. EWER said the fear of development is that the current rules are that if they are in rural Montana and they want to develop and put a house up and may not have to put what the later zoning may have eg., curbs, gutters, water, so the costs may go up and the profitability may not be as high. REP. ANDERSON responded that would be one example, there may be zoning regulations in terms of density of housing per acre and would affect the ability to do as they see fit.

REP. EWER asked if REP. ANDERSON understood the concept and legality of spot zoning, which are not legal, and well thought out comprehensive plans. REP. ANDERSON explained what has been attempted in Park County and Flathead Valley.

Vote: Motion to reconsider HB 358 carried 12-6 with REPS. EWER, HAGENER, MCCULLOCH, SHEA, TROPILA and WYATT voting no.

Motion/Vote: REP. ANDERSON MOVED HB 358 DO PASS. Motion carried 12-6 with REPS. EWER, HAGENER, MCCULLOCH, SHEA, TROPILA and WYATT voting no.

EXECUTIVE ACTION ON HB 129

Motion: REP. BOHLINGER MOVED TO RECONSIDER HB 129.

Discussion:

REP. BOHLINGER spoke in favor of HB 129. REP. TROPILA spoke in opposition to HB 129 saying the people doing the records retention are volunteers and if they get more work, they will no longer do it.

REP. ANDERSON spoke in favor of HB 129 stating more work is not being developed by this bill.

REP. FORBES spoke in opposition to bringing HB 129 back.

REP. MILLS spoke in opposition citing the only thing that saved the passport problem for his wife is the fact that the school had records that were fifty years old and he appreciated that fact that the records were kept.

REP. TROPILA reiterated the people doing the record retention schedule are volunteers. He explained why he could not support the motion.

CHAIRMAN BOHARSKI said it is his understanding during committee discussions that all this bill does is create a schedule so records could be disposed of without having to get permission from the commission every time.

Vote: Motion failed 9-7 with REPS. BOHARSKI, EWER, ANDERSON, BOHLINGER, DENNY, KEENAN, and MILLS voting yes.

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 2-16-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		



HOUSE STANDING COMMITTEE REPORT

February 17, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 358 (first reading copy -- white) do pass.

Signed:

Wm E Boharski

Bill Boharski, Chair

Committee Vote:
Yes 12 No 6

411231SC.Hbk

28

ROLL CALL VOTE

Local Government

DATE _____ BILL NO. 358 NUMBER _____MOTION: Anderson -Do Pass -

NAME	AYE	NO
Rep. Bill Boharski, Chairman	—	
Rep. Jack Herron, Vice Chairman, Majority	—	
Rep. David Ewer, Vice Chairman, Minority		✓
Rep. Chris Ahner	—	
Rep. Shiell Anderson	—	
Rep. Ellen Bergman	—	
Rep. John Bohlinger	—	
Rep. Matt Brainard	—	
Rep. Matt Denny	—	
Rep. Rose Forbes	—	
Rep. Toni Hagener		✓
Rep. Bob Keenan	—	
Rep. Linda McCulloch		✓
Rep. Jeanette McKee	—	
Rep. Norm Mills	—	
Rep. Debbie Shea		✓
Rep. Joe Tropila		✓
Rep. Diana Wyatt		✓

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Local Government

DATE _____ BILL NO: 358 NUMBER _____

MOTION: _____

Anderson - review HB 358
Take from table
OK for

NAME	AYE	NO
Rep. Bill Boharski, Chairman	—	
Rep. Jack Herron, Vice Chairman, Majority	—	
Rep. David Ewer, Vice Chairman, Minority		✓
Rep. Chris Ahner	—	
Rep. Shiell Anderson	—	
Rep. Ellen Bergman	—	
Rep. John Bohlinger	✓	
Rep. Matt Brainard	—	
Rep. Matt Denny	✓	
Rep. Rose Forbes	✓	
Rep. Toni Hagener		✓
Rep. Bob Keenan	—	
Rep. Linda McCulloch		✓
Rep. Jeanette McKee	—	
Rep. Norm Mills	✓	
Rep. Debbie Shea		✓
Rep. Joe Tropila		✓
Rep. Diana Wyatt		✓

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SENATE LOCAL GOVERNMENT

Page 2

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0220	ELLIOTT, JIM	2/20	3/09	3/23	ALLOWING EQUAL ASSESSMENTS AGAINST PROPERTY IN STREET LIGHTING DISTRICTS	TABLED ON 03/24	VOTE:		
HB0249	MARSHALL, ROD	2/21	3/09		GENERALLY REVISING LOCAL GOVERNMENT TRAFFIC REGULATION	CONCUR	3/16	VOTE:	3/18
HB0259	TUSS, CARLEY	2/21	3/14		RAISE PENALTY FOR MINORS VIOLATING A CURFEW ORDINANCE	CONCUR	3/14	VOTE:	3/16
HB0270	MCCULLOCH, LINDA	2/21	3/14		ALLOW REAL PROP OWNER TO PETITION FOR INCLUSION IN TRANSPORTATION DIST	CONCUR	3/14	VOTE:	3/16
HB0282	EWER, DAVID	2/01	3/02		CLARIFY DEPT OF COMMERCE DUTIES IN AUDITING & SUPERVISING LOCAL GOVERNMENTS	CONCUR	3/2	VOTE:	3/04
HB0289	SOFT, LOREN	2/21	3/14		ELIMINATE 12% UTILITY RATE INCREASE LIMIT ON MUNICIPAL UTILITIES	CONCUR	3/16	VOTE:	3/18
HB0308	EWER, DAVID	2/27	3/09		REVISE WATER\SEWER LAW RE: RATES, TERMINATION, COLLECTION, & ISSUING BONDS	CONCUR AS AMENDED	3/23	VOTE:	3/25
HB0358	TREXLER, CLIFF	2/27	3/21		ZONING PROTEST CRITERIA -- MODIFICATIONS	CONCUR	3/23	VOTE:	3/25
HB0393	GRADY, ED	2/20	3/16		REVISE LAWS RELATING TO SUPERVISION OF COUNTY ROADS	CONCUR AS AMENDED	3/16	VOTE:	3/20
HB0417	MILLS, NORM	2/21	3/16		ALLOW CITY'S GOVERNING BODY TO DECIDE NUMBER OF CITY JUDGES IN CITY COURT	CONCUR	3/16	VOTE:	3/18
HB0421	EWER, DAVID	3/09	3/21		REVISE COUNTY HOSPITAL LAWS	CONCUR	3/23	VOTE:	3/25
HB0425	KEENAN, BOB	2/21	3/16		REQUIRE PAYMENT OF PROPERTY TAXES BEFORE FINAL APPROVAL OF SUBDIVISION PLAT	CONCUR	3/16	VOTE:	3/18

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House BILL NO. 358

INTRODUCED BY

ME

Cliff Truitt, Brainerd

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PROTEST REQUIREMENTS FOR ZONING ADOPTION; AND AMENDING SECTION 76-2-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-205, MCA, is amended to read:

"76-2-205. Procedure for adoption of regulations and boundaries. The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district ~~shall~~ must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice ~~shall~~ must state:

- (a) the boundaries of the proposed district;
- (b) the general character of the proposed zoning regulations;
- (c) the time and place of the public hearing;
- (d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make ~~such~~ any revisions or amendments ~~as that it may deem~~ determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice ~~shall~~ must state:

1 (a) the boundaries of the proposed district;

2 (b) the general character of the proposed zoning regulations;

3 (c) that the proposed zoning regulations are on file for public inspection at the office of the county
4 clerk and recorder;

5 (d) that for 30 days after first publication of this notice, the board of county commissioners will
6 receive written protests to the creation of the zoning district or to the zoning regulations from persons
7 owning real property within the district whose names appear on the ~~last-completed~~ last-completed
8 assessment roll of the county.

9 (6) Within 30 days after the expiration of the protest period, the board of county commissioners
10 may in its discretion adopt the resolution creating the zoning district ~~and/or~~ or establishing the zoning
11 regulations for the district; ~~but~~ However, if 40% of the freeholders within ~~such~~ the district whose names
12 appear on the ~~last-completed~~ last-completed assessment roll or if freeholders representing 50% of the titled
13 property ownership ~~shall~~ have protested the establishment of the district or adoption of the regulations, the
14 board of county commissioners ~~shall~~ may not adopt the resolution and ~~no~~ a further zoning resolution ~~shall~~
15 may not be proposed for the district for a period of 1 year."

16 -END-

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on March 21, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: none

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 421, HB 358
Executive Action:

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

HEARING ON HB 421

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Helena, presented HB 421 which revised county hospital laws but not county hospital districts. HB 421 moved away from archaic concepts found in county hospital law. Many statutes revised in HB 421 were enacted in the 1930's when the notion was the government should provide for the indigent. That concept with so many third party payers has gone out of date and access should be thought about. Many parts of current statute preclude counties who have a county hospital from expanding to additional facilities. HB 421 would bring statutes into a more modern time. It moved away from the definition of

CHAIRMAN BECK said that as he understood it, the counties probably subsidize a hospital with a mill levy and will use the revenue from whatever hospital they have to pay off the bonds but the counties may subsidize that to keep the doors open.

Mr. Hansen said that when they started out their project, they had intended the community would vote on general obligation bonds but the estimates of the cost to fix the building exceeded the maximum indebtedness of the county. There was a real benefit to rural communities with HB 421.

SEN. GAGE questioned the use of the word depletion in section 10 an 11 and asked Susan Fox if it was appropriate? Ms. Fox said that was existing law.

SEN. ESTRADA asked who requested the bill draft? REP. EWER said he was asked to sponsor the bill by the people from the Montana Association of Counties, Mae Nan Ellingson and Gene Huntington. They pointed out to him the problems in current statute especially with opinions from the Attorney General which took a very strict approach regarding the definition of county hospital. It was an archaic law and needed to be clarified.

Closing by Sponsor:

REP. EWER said that in regards to revenue bonds are supported by revenues but in the case of county hospitals, statutorily 10 mills are allowed. Up to 3 mills not submitted by a vote and 3 additional mills approved by a vote of the people are allowed. Typically hospitals are subsidized and a major portion of the revenue generated by the facility are the fees. Many times there is some subsidy and that subsidy can be a useful component to sell bonds. If more than 3 mills you have to get a vote of the people. HB 421 said given the preponderance of the revenue stream is not tax monies, it should not be against the debt limitation. Ten mills would be modest compared to the revenues. County revenues are small and not having the mills effect the quality of having to make the bonds be part of the debt limitation. HB 421 tried to bring some modernness into the definition of health care facility and it was not a poor versus rich issue but an access issue.

HEARING ON HB 358

Opening Statement by Sponsor:

REP. CLIFF TREXLER, HD 59, Corvallis, said that HB 358 was not a zoning bill, it would was a bill to equalize zoning slightly. A zoning district can be applied for by a group of people and then present it to the county planning board. If 40% of the residents decide they do not agree with the plan it may be protested. HB 358 would add besides the 40% of residents able to protest, 50% of the acreage owners. To head off some concern that this bill

was to benefit a huge ranch, he mentioned that he was not a subdivider or developer but a real estate agent for 20 years and an appraiser. When a zoning district is done, imagination is the limit. The size of acreage, the type and size of houses, whether you can have a yard light or not, whether houses can be painted white or not, what animals can be there, and whether you can park a motor home or not can all be dictated. When zoning is done, it becomes part of your property and must comply with the restrictions. He gave the example of a man in the Flathead found that a section line on a map was used as a boundary for a zoning district. One side could be divided into one acre tracts and the other side it could not be divided into less than 40 acre tracts. Another example he gave was in regard to a man who wanted to subdivide his 54 acre field into 11 lots which was protested. The man was unable to continue raising sheep economically and wanted to subdivide his land. The protesters said the subdivision would be adding to the demise of the valley. The county planners did not find that the man had done anything wrong and set up a zoning district. The neighbors surrounding the subdivision approved in writing the zoning district. He continued with another example and said that as an appraiser there were some people who came to the bank to get a loan. When he went to appraise the 200 acres of land, as agriculture land was at best worth \$1,200 an acre. However, one of the uses of the property could have been subdivision of 10 acre tracts. It qualified to be subdivided as it had septic, water, and access available. Due to that possibility, the property was appraised at \$400,000. If the land was appraised strictly as agriculture, it would have been a loss to the owners borrowing power by approximately \$165,000. The basis of HB 358 was that if the larger land owners should have some input into any kind of zoning district that suggested five two acre tracts between two very large tracts could form a zoning district however big they choose and the two large tract owners would have nothing to say about the zoning. HB 358 would give large land owners input. He said that the opponents would try to give the committee a slant that it would be nice to be able to stop someone from doing something on their land and in closing he would present the reasons why that would not be necessary.

Proponents' Testimony:

Mike Meuli, a rancher from Dayton, read his written testimony (EXHIBIT 2).

Forrest Sanderson, representing the Lake County Board of Commissioner, read his written testimony (EXHIBIT 3).

Carrie Jensen, rancher from Elmo, MT, presented her written testimony (EXHIBIT 4).

John Youngberg, representing Montana Farm Bureau, said that a few years ago zoning was the last thing agriculture producers worried about. Then the allure of country living came and rural

subdivisions began springing up all over. He pointed out that in the Gallatin Valley, nearly 1,200 rural wats were created. These people came into the area for open spaces and yet are closing the door behind them because they want to keep the open spaces and they achieve this by zoning and reducing the value of agriculture land in the area. Many people argue a takings but under takings law zoning has never been shown as a takings of property. HB 358 offered some protection to those property holders who were being surrounded by subdivisions that want to close the door and limit the use the farmers and ranchers had. He urges the committee to protect the farmers and ranchers through passage of HB 358.

Don Allen, representing Montana Wood Products Association, said that many of the comments heard refer to agriculture land and it is important to note that timber has been coming mostly from private holdings. Therefor when talking about agriculture land, timber or forest land is also included. He noted that it was important to understand that an owner of one acre parcel has the same weight as an owner of a 640 acre parcel. The idea that HB 358 would take away the small land owners right to protest is not true and will help assure the farmers, ranchers, and other land owners such as forest land owners will be treated fairly in the zoning process. This bill was not anti-zoning and would not stop zoning efforts. HB 358 will encourage the small lot owners to work with the large owners in good faith and vice versa. HB 358 would not allow large land owners to dictate zoning provisions to small land owner because it does not remove the protest provision for the small land owners and there was still the 40% percent versus the 50% of ownership. This allowed for a buffer for the small landowners to make their case. A stalemate between small and large landowners will not happen as the current law was bias in favor of small ownerships and HB 358 will encourage large and small landowners to work together in good faith to plan for the future area. The ability to maintain for future development or opportunity was important to protect and he encouraged a do pass recommendation for HB 358.

Jim Peterson, Montana Stockgrowers Association, supported HB 358 and added that HB 358 is a question of fairness to all sizes of landowners. HB 358 would not block zoning it would allow for protest by 40% of the freeholders or 50% of those representing the title land to hold off zoning for one year and allow for discussion between land owners. He urged a do pass from the committee.

Lance Clark, Montana Association of Realtors, stated that they support HB 358 and felt this was a fairness issue and urged the committee to pass HB 358.

Candace Torgerson, Montana Cattlewomen Association, strongly supported HB 358 as it would give landowners a change to protect the investment they have made in their land. Land zoning ordinances can have an adverse impact on the resale or refinance value of agricultural land. She urged the committee's do pass recommendation.

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

Opponents' Testimony:

Ann Hedges, Montana Environmental Information Center, stated that 76-2-201 which states, "zoning is for the purpose of promoting the health, safety, morals, and general welfare of the peoples in cities, towns, and counties". She commented that HB 358 said that someone who own a lot of land can prevent your local government from being able to protect public health safety and general welfare. She said she believed the proponents had some decent arguments about bringing people to the negotiating table and was a good idea and was how zoning should occur. They believed HB 358 was a disincentive for certain parties to come to the negotiating table. If a person owns quite a bit of land what is the incentive to go to the negotiating table when you can always step in at the last minute and say "I protest, I disagree with this and you can't do this". Why should people go through negotiations when they do have veto power? She continued that there are problems here and the agriculture interests are correct and have serious concerns, but this was not the way to remedy those concerns. Those concerns were that agriculture land is being affected by people moving in to agriculture areas and that they do not know that there was a district formed that covers their land. There are other ways to address that in the context of the bill like saying "unless the zoning was done for the protection of public health and safety". She would give up welfare and moral but public health and safety are important components of why there are local governments and planning and zoning. She further suggested that the 50% must be agriculture land or that it be required that the local governments notify all of the people that are going to be covered by the district. She said the bill could be made to work but in its current form they were opposed.

Don Spivey, Whitefish City/County Planning Board, submitted his written testimony (EXHIBIT 5).

Ted Lange, Northern Plains Resource Council (NPRC), stated they had some mixed feeling on HB 358 and he wanted to convince the committee they should have mixed feelings as well. The agriculture interested who spoke had excellent arguments and there were real concerns which needed to be addressed. This bill however, cut both ways causing some concern. He gave a couple of examples of how they see it as having negative impacts. The main reason he said was that members in the Gardner area are concerned

with the Church Universal and Triumphant and their development activities. The NPRC saw zoning as an opportunity for citizens to protect their property values by making sure land will be developed wisely. He continued that the Church's activities have not been wise or appropriate and HB 358 could create an insurmountable barrier to any kind of zoning. He left the committee with a question regarding out of state interests buying agricultural land and cattle prices have dropped 20% and if they stay down, who will be buying the ranches? Who will be getting the power of protesting zoning, large out of state interests or Montana agriculture producers? Was this a Ted Turner, Jane Fonda relief bill? He said that an increase of the percentage of land ownership from 50% to 60% would be a good idea or the protesters must be voters.

Paul Johnson, representing Montanans for Healthy Future, said that the purpose of zoning laws was to protect the health, safety, and welfare of the people in a community. Under current law, those kinds of zoning decisions were made by a majority of the people in a community. The process involved a public hearing involvement of the planning board, and the county commission and a decision by the elected officials of the people. They oppose HB 358 because it allowed a few or even one land owner to control the decision about health and safety concerns of a whole community. It was a radical departure from current law as a rule by majority process. By turning political control over to property rather than people, it should be thought that it can cut both ways. The example of the Church Universal and Triumphant and other large land owners who represent interests from outside the state and country who can use this law to defeat zoning proposals by agricultural interests. HB 358 was brought in good faith and like many who have spoke, there are legitimate problems to address but there needs to be a better way to address the problem. Providing that much political control in property alone contrary to what people want went to far and he asked the committee to not concur in HB 358.

J. B. Bennet, representing Montana Public Interest Research Group (MPIRG), said that MPIRG Creek was an organization which advocated good government and they opposed HB 358 because it was bad policy for the state of Montana. He said that Paul Johnson expressed their philosophic concerns of rule by property rather than rule by people. He said they also had some practical concerns. Many of the problems brought up by the proponents were legitimate concerns and there are things in zoning that have not worked. Bringing people to negotiate in good faith was one of the point which must be worked on. They did not feel that the change in the protest will accomplish the negotiations and they saw some significant dangers. He said that there was an assumption in HB 358 that large land holders will be the folks who have been there but that may not always be the case. With more people who have looked to Montana as a place to buy unspoiled land more owners may be from out of state and not concerned with community values. Another problem was with public

health and safety and the thought that citizens may want to zone out uses such as hazardous waste facilities. There is a danger in local communities losing their control of their own destinies. He concluded that they need to find a way to encourage people to come to the negotiating table in good faith without weighing the protest. They urged the committee to not pass HB 358.

Melissa Case, representing Montanans Against Toxic Burning, said that growth causes problems and Montana was dealing with problems with growth pertaining to agriculture use, cities, and counties. People were moving to Montana because the area has been preserved and she stated that she thought it was the sponsor's intent to preserve the unique environment Montana has. The problem they had with HB 358 was that there was the possibility of backfire. There was more than agriculture interests at stake as there are other large land owners in Montana that will take advantage of the opportunity to prevent local governments from protecting their communities. They wanted to see some changes in the bill to address their concerns as HB 358 has some good intentions to keep Montana's unique environment. She asked the committee to take a look at the possibility of HB 358 backfiring as it pertains to large industry. She asked the committee to table the bill until the problems could be addressed.

Questions From Committee Members and Responses:

SEN. HARGROVE asked Mr. Sanderson if landowners have the option of opting in or opting out of zoning district? Mr. Sanderson said that in Lake County they try to get everyone involved and gerrymander the district so that the people who want in share a common goal.

SEN. HARGROVE asked Mr. Youngberg what he saw as the long term effect of HB 358? Mr. Youngberg said that the long term effect was that the private land owner surrounded by subdivision has the option to do with his property what he wants.

SEN. HARGROVE asked REP. TREXLER what he envisioned as the long term effect of HB 358 in terms of land use? REP. TREXLER said that he did not believe the true use of the land will be alter very much and that there has been the assumption made that everyone who owns a large piece of land wants to subdivide. The majority of large pieces of land were here first and little tracks were not here to begin with. People with large tracks of land have them for a reason and the real estate market has been good for the last twenty years and if that person has been in the nature to make money, they would have done it by now. He did not know if it would make a big difference in large tracts or small tracts.

SEN. HARGROVE asked REP. TREXLER to comment on the suggestion that all of the land owners would be required to be a registered voter? REP. TREXLER said he did not see anything wrong with that and that he did not feel it would be an issue.

SEN. GAGE said that the registered voter comment could be a Montanan who may not want to vote. REP. TREXLER said he had a valid point and he would leave that decision to the discretion of the committee.

SEN. ESTRADA said she felt it was a problem that everyone in the room would like to resolve and asked REP. TREXLER if he would be willing to amend the bill so that everyone was happy?. REP. TREXLER said he has met with some of the opponents and has been very open to amend in some way that it would not eliminate what he was trying to do. The majority of the people who wanted an amendment have a particular industry or circumstance they do not like and have been using zoning to get at that particular item. He said that for two weeks he had worked with attorneys to come up with some language that would accomplish an agreement but was not successful.

SEN. ESTRADA directed the same question to Mr. Spivey. Mr. Spivey said that they have no ax to grind and no particular industry in mind. They are trying to meet the objectives set for them and they do recognize the problem. There were two kinds of problems, one was a good faith negotiation was carried out and then is overturned by 40% of the voters and to fix that you raise the 40% to 60%. Secondly, there may be the situation where someone may not want zoning, or may want to do something so far out into orbit but because they own so much land they could protest the zoning. They have struggled to find an equitable solution and you have to raise the bar on the large property owners so that two or three property owners could not control the destiny of several hundred.

SEN. HARDING asked Mr. Sanderson if HB 358 would affect any zoning districts already in place? Mr. Sanderson said that in Lake County it has the potential to affect change because when they write a zoning district they write in mandatory review revisions and updates one year after adoption and every five years after adoption.

SEN. HARDING asked how the Church Universal and Triumphant and Ashgrove enter into the picture and what could it do to these groups? Mr. Sanderson said that he was not familiar with the Ashgrove scenario but he did grow up in Belgrade and was familiar with the Church Universal and Triumphant operation. It was his understanding that they already control the majority of the population in Park County and there will not be a change in what happens in Park County. In Lake County, at Lake Mary Ronan in 1993, a group of all the major land owners and small land owners got together and negotiated in what he thought was good faith and then the small land owners said they did not like the agreement.

SEN. ECK asked Mr. Spivey if a zoning district in some way fits in with a counties master plan? Mr. Spivey said that it does in their case and small zoning districts are not allowed. Zoning must be done under the master plan and whatever the master plan

designates the area to be that characterized the range of zoning options. He said that their districts are usually several sections at a time.

SEN. ECK asked what kind of approval is needed by the district besides the opt in opt out provision. Does it also need the approval of the planning board and the county commission? Mr. Spivey said that after the neighborhood process is complete, a series of public hearings are conducted before the planning board and the planning board will make a recommendation to the county commissioners. The county commissioners will then make a decision and if they adopt the zoning there would be a thirty day window from the time they make the first resolution of intent until the district is finalized. A protest must occur in the thirty day window.

SEN. ECK asked how many cases have zoning district protests been successful in killing a district? Mr. Spivey said that in Flathead County there has only been one in many years which was recently in the canyon. Mr. Sanderson said that in Lake County there has only been one overturned although there were protests submitted on all of the districts created. SEN. ECK commented that the 40% most of the time was not that bad.

Closing by Sponsor:

REP. TREXLER said that the opponents mentioned they only wanted to zone some particular thing or person. They turned the whole thing around to say there is some big bad land owner who is going to do something big and bad with his land and they will not like it. The gentleman from Whitefish told the committee that everything has to go through the county planning board and the county commissioners and no big land owner can come in and do these things without it being approved. As far as health and welfare, there are three different departments in the average county to take care of a problem. There are already excellent planning boards and commissioners set up over the last 20 years to take care of those problems. That was not what HB 358 was asking about. All of those methods were in process and all they are saying was if the opposite happens and a group of people are imposing their wishes on their neighbors, they must sit down and talk with their neighbors to reach an agreement. A large subdivision must be approved by a planning board and the county commissioners. People in forestry who buy a large piece of mountainside and manage the forest for the aesthetics, game, and their own pleasure, they should be allowed to do that and not be zoned to not do that. For many ranchers and farmers, their only equity they have would be the value that the ranch has developed in over the 30 or 50 years they have been there. He asked the committee to not do away with the inherited value they have and give them a chance to make an even playing field by approving HB 358.

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE March 21, 1995

[illegible]

SEN:1995
wp.rollcall.man
CS-09

DATE 3-21-95BILL NO. HB 358

Mike J. Meuli
P.O. Box 2
Dayton, MT 59914
(406) 849-5085

Re:HB 358

"Good" zoning is a balance between the negative effects of private property rights restrictions and the benefits of wise land use planning. I am a supporter of "good" zoning. Zoning that is balanced.

House Bill 358 provides for a balance, that is currently absent, in Montana's zoning statute. Under current law the scales weigh very heavily in favor of the smaller landowner. And this when the smaller landowner has little or nothing to lose in the zoning process while the neighboring agricultural landowners can and have been drastically effected by severe zoning restrictions. HB 358 does not take away small landowners right to protest but merely levels the field and encourages bargaining in good faith at the citizen level.

It is inherent in the process that any zoning takes away some private property rights. However done in a fair and reasonable manner good zoning can actually enhance property values therefore mitigating the loss of control.

When looking at the typical zoning proposal there are usually two groups of landowners involved. One is the small acreage owners and the other consists of owners of the adjoining agricultural properties. Typically the small landowners outnumber the larger landowners by a wide margin. Here is where the current law is out of balance. The small landowners come to the negotiating table knowing that if they don't like the final plan that they can raise the necessary 40% of the landowners to protest and stop the zoning proposal. They also come knowing the agricultural landowners have no power to back up their positions.

The Lake Mary Ronan zoning district in Lake County is an example of the zoning process working as it should and then being derailed. A cross section of landowners worked hard to come up with a fair proposal and did. Without getting into specifics there were several zones moving out from the lake with housing densities ranging from two acre lots to 40 acre lots with cluster development allowed. The Lake County General Plan allowed one acre density over the whole area. As you can see this zoning proposal increased the land restrictions greatly over the county general plan but was accepted as a reasonable compromise by most of the landowners. This proposal went through the hearing process and passed the Lake County Planing Board. However before the county commissioners took action a number of smaller landowners were convinced that they should protest in order to stop this proposal and put more severe restrictions on in a future zoning

plan. The protest was successful and the zoning has been stopped. It is obvious that the next proposal is not going to be balanced and the agricultural landowners are going to suffer significant loss of property values because of it.

There are other examples that are even more extreme. In at least two cases all land that was not already divided into lots was zoned to a 40 acre density with no allowances for clustering. Zoning of this nature is very detrimental to land quality. As a rancher, having received two recent conservation awards for leadership in weed control and range management, I speak with genuine concern for the land. If you travel western Montana and look at land that has been divided into 20 plus acre lots you will find nearly all of it either overgrazed or totally infested with noxious weeds. The very land that is supposed to be protected by zoning will ultimately lie useless and unproductive. Instead of allowing new residents to purchase a reasonable size lot, most zoning plans ultimately force people to own a larger acreage than they desire or are able to properly manage. This leads to less agricultural base, which with every ag dollar turning over seven times in the local communities and across the state amounts to a significant loss to Montana.

Current zoning trends amount to an end run around the subdivision law passed in the last legislative session. Despite subdivision regulations designed to stop them the 20+ acre tracts are forced to continue with the resulting waste of land, damage to surrounding agricultural producers from increased weed invasion, and significant loss of revenue to our state's economy due to lack of agricultural base.

As a rancher in western Montana who has no plans to subdivide, and would like to continue to ranch and provide access for hunting, hiking and other recreation for Montana sportsman, I am concerned that the current law is pushing me the other direction. It is apparent that the only way to assure that my property rights and land values are not zoned away is to be the first one in my area to subdivide.

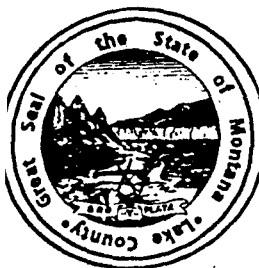
We need zoning as it allows people to get together and plan for the future of their area. However the current zoning law is unfair to the people most effected by it and needs the balance provided in House Bill 358. With this legislation both parties would come to the table to bargain in good faith and the decision would be left in the hands of the people where it needs to be. Ultimately good land use planning will prevail with all parties being treated fairly.

I thank you for you time and your consideration of this bill.

Sincerely,

Mike J. Meuli

45



Lake County Courthouse

(408) 888-8211

LAKE COUNTY

108 4th Ave. E.

Polson, Montana 59880

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 3

DATE 3-21-95

BILL NO. HB 358

March 15, 1995

Senate Local Government Committee
Tom Beck, Chairman
Room 405
Capitol Station
Helena, MT. 59620

Re: House Bill #358

Mr. Chairman and members of the Senate Local Government Committee,

My name is Forrest Sanderson, and I stand before you today representing the Lake County Board of County Commissioners and the Lake County Planning Department to voice our support for H.B. #358. Our support for this legislation is based on our planning and zoning philosophy that land use regulation, in the form of zoning, is a consensus driven process, rather than by special interest.

One of the largest obstacles to planning and zoning initiatives in a rural setting is convincing owners of large portions of a district to come to the table and discuss these ideas. Admittedly, a sizeable portion of this problem is the alien nature of these concepts to many owners of agricultural lands in rural Montana. It is our opinion, that the main reasons that owners of large acreage's balk at the idea of planning and zoning is that no one can assure them that they will be afforded adequate protection, under law, from the whims of local government or their neighbors.

It is our firm belief, that, as a result of education and the pressures resulting from change, we can overcome the suspicions surrounding planning and zoning. However, without a change to the current zoning protest language in Montana Law, we can not assure any group of land owners that they will receive equitable treatment in the zoning adoption process.

The real travesty in this scenario is that rules can be twisted and decisions affected by forty percent (40%) of the freeholders, while the rights, wants and expectations of the persons that own most of the affected lands within the proposed district could potentially be ignored. It appears logical to us that in the spirit of equity that if we are willing to protect the minority of freeholders we should also make provisions to protect the individuals that own the majority of the property within a proposed district.

We have heard several opponents of HB #358, many of whom we respect both professionally and personally, speak about affects of this legislation. I have listed some of these concerns and my response below:

CONCERN: By adopting HB #358 we move away from the one person, one vote concept.

ANSWER: Unless we have grossly misinterpreted the language and intent of HB #358, the 40% freeholder clause will remain intact, which covers one person, one vote, while providing some measure of equity to owners of the majority of property within a proposed district.

CONCERN: HB #358 does not do what you want. Protect agricultural ownerships, their rights and expectations in the planning and zoning process.

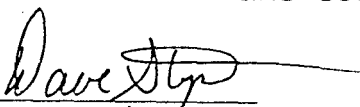
ANSWER: If HB #358 is not the tool to accomplish this goal, what will? To date none of these outstanding professional persons has been able to provide us with an acceptable solution.

CONCERN: HB #358 is a land barons bill.

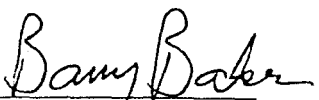
ANSWER: Typically, all large blocks of land are the target of exclusionary zoning, it has been our experience that more often than not, the owners of these properties are the Mom and Pop farm operations not land barons. For this reason we believe HB #358 should be referred to as the land owners parity bill.

For the reasons contained in this testimony and the philosophy of Lake County in the planning and zoning process, the Lake County Board of Commissioners and I as a professional planner encourage your favorable consideration of HB #358. Thank you.

Sincerely,
Lake County Board of County Commissioners


Dave Stipe
Chairman


Mike Hutchin
Member


Barry Baker
Member


Forrest Sanderson
Senior Planner

JENSEN RANCH

THOROUGHbred HORSES — BUILDING ROCK
WHITEFACE CATTLE — TRAILER PARK
RANCH EQUIPMENT

DONALD & CARRIE JENSEN

HWY 93 ELMO, MONTANA 59915 (406) 849-5603

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 4

DATE 3-21-95

BILL NO. HB 358

Senate Local Government Committee
Montana State Senate
Helena, MT 59620

Dear Senators:

As cattle ranchers we ask that you support HB358 to better enable us to be good stewards of our ranch lands.

Presently the current law allows small landowners to bring about zoning without the larger land owners being notified. Recently we had the experience of accidentally finding that approximately a 500 acre portion of our ranch was included in zoning that would prohibit us from having even a duplex on 500 acres. * Closed meetings were being held by a group of small lot owners. If we were ever forced to sell these acres, the value would be diminished. *With larger landowner input, duplexes - triplexes were allowed condition*

We need to only look over the fence of our home base to see 10, 20 to 40 acre tracts infested almost solidly with knapweed where once there was 600 acres of good grazing. This is common where low density zoning results in people owning more than they can care for or desire.

The protest provision allowing owners of 50% of the land within a proposed zoning district to protest and stop an unfavorable zoning proposal will have the immediate effect of encouraging the small lot owners to include larger land owners for bargaining in good faith at the citizen level--more equitable zoning will result without protests needing to be generated.

We have a 3rd generation ranch operation and ask that you bring balance to the zoning statue by passing HB358.

Sincerely,

Donald Jensen
Carrie Jensen

March 20, 1995

To: Senate Local Government Committee
Senator Tom Beck, Chairman

Subject: House Bill 358

I am Don Spivey, retired businessman and member of the Whitefish City/County Planning Board. Today I am representing myself, the Whitefish Planning Board and Citizens For A Better Flathead, a group of several hundred interested citizens. We are opposed to HB 358 as currently submitted.

Our single concern is with the addition of the provision adding 50% of the titled property ownership as an overturn criteria. Although we recognize the seeming inequity between the "one man, one vote" and the size of property ownership we believe this is an inappropriate solution.

In our county and more specifically in our Whitefish land-use jurisdiction, we are in the process of updating our Master Plan (3rd update) and moving ahead with zoning the remainder of the unzoned portions of our district in accordance with the updated Master Plan. We are doing this under the strongest of public mandates. The reasons for moving ahead with further zoning is to provide the tools necessary to implement the updated Plan, as defined and allowed in the Montana Land-use Statutes.

Our problem (challenge) is to achieve a super majority support for the characteristics of any proposed Zoning District. Given this proposed legislation we have instances today where 3-4 large property owners, be they farmers, developers or private timber companies could overturn even a 75% supporting majority. The reasons for large property owner opposition in our area has always fallen into 2 categories:

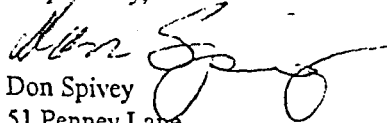
1. Just don't want Zoning
2. They want to do something with the property that the proposed zoning would not support. Those desires are never to preserve the farm or open space but rather to subdivide in some 'unsupported' manner.

With every proposed Zoning District action we conduct several neighborhood meetings and several public hearings to attempt to satisfy as many of the land owners as possible. The seeming inequity between numbers of owners and size of property ownership is always there. Although I believe a super majority of owners is the correct solution some changes to the proposed legislation could provide mediation of the two views, to wit:

1. The 50% could be increased to 70% to dilute the influence of the few over the many.
2. Property owners of filed and deeded parcels could get a vote for each parcel they own thus allowing owner of multiple parcels to have larger representation.

If some change of the type discussed above or simply removing the property size qualifier is not made we remain opposed to HB 358 as it will 'effectively' cripple our capability to serve the public fairly, and we will severely damage the 'one man-one vote' basis of our current form of government.

Respectfully,



Don Spivey
51 Penney Lane
Columbia Falls, MT
257-0724

DATE 3-21-95

SENATE COMMITTEE ON LOCAL GOVERNMENT

BILLS BEING HEARD TODAY: HB 358 HB 421

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
DON SPIDLEY	SELF/PLANNED Expos	358		✓
FORREST SANDERSON	LAKE COUNTY	358	✓	
Carrie M Jensen	LAKE Self	358	✓	
DONALD JENSEN	SELF	358	✓	
Paul Johnson	Montana For Healthy Future	358		✓
Gordon Morris	MTAC	421	✓	
Bob Olsen	MT Hospital Assoc	421	✓	
Lance Clark	MT ASSN REALTORS	358	✓	
Mike Meuli	Self	358	✓	
D. Youngberg	MT Farm Bureau	358	✓	
Shirley Torgerson	MT Cattlemen	358	✓	
Jim Hansen	MT Stockgrowers	358	✓	
Gene Huntington	Orin Bonworth	421	✓	
J.V. Bennett	MontPIRG	358		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

< ■ >

PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Melissa Case	Nontoxans Against Toxic Burning	352		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Steve Brown	Mt Hosp Assn	427		
Ted Lange	NPRC	358		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on March 23, 1995, at 3:20 p.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: none

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:
Executive Action: HB 220, HB 308, HB 197, HB 101, HB 358,
HB 421

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

EXECUTIVE ACTION ON HB 220

Discussion:

CHAIRMAN TOM BECK asked Susan Fox if there were any amendments. Ms. Fox said there were no specific amendments proposed but everyone has had problems whether it was approved or protested for assessment in lighting districts. In the House it was changed to "protested" from "approved".

Motion/Vote: SEN. ESTRADA MOVED HB 101 BE TABLED. THE MOTION CARRIED WITH SEN. ECK VOTING NO.

EXECUTIVE ACTION ON HB 358

Motion: SEN. GAGE MOVED HB 358 BE CONCURRED IN.

Discussion:

CHAIRMAN BECK asked if there were any amendments offered to the bill.

Susan Fox said there were many suggestions during the hearing but no offered amendments.

SEN. WELDON said that the bill adds the ability of 50% of the title property owners to protest. The most compelling argument is the cost in attempting to maintain records to judge 50% of the property owners. The bill says, "freeholders representing property ownership" and he was not sure what that meant. He said it was a problematic bill and he understood the frustration sparking this bill but it would make it difficult for local governments to maintain some sort of control and he opposed the motion.

SEN. HARGROVE said that the opponents were all wishy washy about the bill and overall there is a unfairness and this bill protects the people who have been there the longest. He said it may not have been perfect but it should be given a shot.

SEN. ETHEL HARDING said without the bill it would put farm and ranch people in a position where they were concerned they would not be able to do anything with their land. If they are going to be so restricted by people who decide they should just have an open space, they should just subdivide and get out and that was not the message she wanted to send. She said that the people on farm and ranch operations should stay there as long as they want.

SEN. LYNCH said that he did not understand the bill and if this law was in effect when he was growing up in the 1950's and 40's there would be no zoning because the Anaconda Company could have stopped anything. He stated that moving to 60% protesting was not a bad idea. He wanted to protect the land owners too, but he was not sure about the bill in it's current state.

SEN. SHARON ESTRADA said she had concerns also as you should be able to do what you want with your property but she had some problems with the bill and was not sure what to do.

SEN. HARGROVE said it depended on where you live. In his area of Belgrade, there is rapid growth and the person who has been there for many years winds up not having any say over what is his home.

CHAIRMAN BECK agreed with SEN. HARGROVE and said that if zoning regulations are put into affect and just because a person owns a fairly large track of land and only has one voice, it will affect the equity of the land. This was getting at the position of takings in that if a person with 2 acres voted to zone another persons 2,000 acres is not fair and that is the point the bill is trying to make..

SEN. LYNCH pointed out Ted Turner who owns a huge piece of property and has 300 people around him, then he would have control.

CHAIRMAN BECK said the answer to SEN. LYNCH'S comment is to zone the people who want the zoning and not Ted Turner.

SEN. HARDING said why should people with 10% or less of the land be able to have a protest and those with a majority of the land have no say at all. They should be able to have a say and 160 acres are still under the requirements of the environmental standards.

SEN. LYNCH said there are three strong for the bill and three are luke warm against the bill and it was time to vote.

SEN. HARGROVE said that this did not eliminate one in favor of another, it was a matter of percentages.

SEN. WELDON said it is 40% of the freeholders and they do not necessarily have to be a resident freeholder so there was still a mechanism to protest.

CHAIRMAN BECK said the point is that when zoning if one person who owns a large piece of land objects, you've stopped the zoning for a year and then you can come back in and do a zoning with out that land. It is not worth getting into a takings position.

Vote: THE MOTION CARRIED. (SEE ROLL CALL VOTE NUMBER 3).

EXECUTIVE ACTION ON HB 421

Motion/Vote: SEN. LYNCH MOVED HB 421 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE _____

3-23-94

[illegible]

SEN:1995
wp.rollcall.man
CS-09

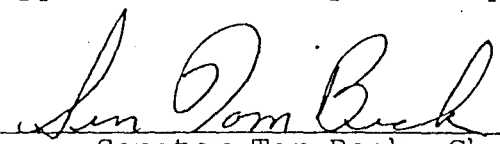
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 24, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 358 (third reading copy -- blue), respectfully report that HB 358 be concurred in.

Signed: 

Senator Tom Beck, Chair

 Amd. Coord.

 Sec. of Senate

Sen. Beck
Senator Carrying Bill

681126SC.SPV

57

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE
ROLL CALL VOTE

DATE 3-23-95 BILL NO. HB 358 NUMBER 3

MOTION: Concur

[illegible]

SEN:1995
wp:rlclvote.man
CS-11

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 29, 1995 12:41 pm

Mr. Chairman: I move to amend HB 358 (third reading copy -- blue).

ADOPT

31-13

REJECT

Signed:



Senator Beck

That such amendments read:

1. Title, line 5.

Strike: "SECTION"

Insert: "SECTIONS 76-2-101 AND"

2. Page 1.

Following: line 8

Insert: "Section 1. Section 76-2-101, MCA, is amended to read:

"76-2-101. Planning and zoning commission and district. (1) ~~Whenever~~ Subject to the provisions of subsection (5), whenever the public interest or convenience may require and upon petition of 60% of the freeholders affected thereby, the board of county commissioners is hereby authorized and empowered to order and create a planning and zoning district and to appoint a commission consisting of five members.

(2) No such planning or zoning district may be created in an area which has been zoned by an incorporated city pursuant to 76-2-310 and 76-2-311.

(3) For the purposes of this part, the word "district" shall mean any area that consists of not less than 40 acres.

(4) ~~An~~ Except as provided in subsection, an action challenging the creation of a planning and zoning district must be commenced ~~by October 1, 1994, or~~ within 5 years after the date of the order by the board of county commissioners creating the district, ~~if the district was created after October 1, 1989.~~

(5) If freeholders representing 50% of the titled property ownership in the district protest the establishment of the district within 30 days of its creation, the board of county commissioners may not create the district. An area included in a district protested under this subsection may not be included in a zoning district petition under this section for a period of 1 year."

Renumber: subsequent section

-END-

HB 358

SENATE

 Amd. Coord.

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 29, 1995 3:26 pm

Mr. Chairman: I move to amend HB 358 (third reading copy -- blue).

ADOPT *V.V.*

REJECT

Signed: *Sen Tom Beck*

Senator Beck

That such amendments read:

1. Page 2, line 13.

Following: "ownership"

Insert: "whose property is taxed for agricultural purposes under 15-7-202(2)(a) or whose property is taxed as forest land under Title 15, chapter 44, part 1,"

-END-

JA
Amd. Coord.

HB 358

SENATE

HOUSE BILL NO. 358

INTRODUCED BY TREXLER, BRAINARD, GREEN, MCGEE, STORY

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PROTEST REQUIREMENTS FOR ZONING ADOPTION; AND AMENDING ~~SECTION~~ SECTIONS 76-2-101 AND 76-2-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 76-2-101, MCA, IS AMENDED TO READ:

"76-2-101. Planning and zoning commission and district. (1) ~~Whenever~~ Subject to the provisions of subsection (5), whenever the public interest or convenience may require and upon petition of 60% of the freeholders affected thereby, the board of county commissioners is hereby authorized and empowered to order and create a planning and zoning district and to appoint a commission consisting of five members.

(2) No such planning or zoning district may be created in an area which has been zoned by an incorporated city pursuant to 76-2-310 and 76-2-311.

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(5) If freeholders representing 50% of the titled property ownership in the district protest the establishment of the district within 30 days of its creation, the board of county commissioners may not create the district. An area included in a district protested under this subsection may not be included in a zoning district petition under this section for a period of 1 year."

Section 2. Section 76-2-205, MCA, is amended to read:

"76-2-205. Procedure for adoption of regulations and boundaries. The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the

1 zoning district ~~shall~~ must be published once a week for 2 weeks in a newspaper of general circulation within
2 the county. The notice ~~shall~~ must state:

3 (a) the boundaries of the proposed district;

4 (b) the general character of the proposed zoning regulations;

5 (c) the time and place of the public hearing;

6 (d) that the proposed zoning regulations are on file for public inspection at the office of the county
7 clerk and recorder.

8 (2) At the public hearing, the board of county commissioners shall give the public an opportunity
9 to be heard regarding the proposed zoning district and regulations.

10 (3) After the public hearing, the board of county commissioners shall review the proposals of the
11 planning board and shall make ~~such~~ any revisions or amendments ~~as that it may deem~~ determines to be
12 proper.

13 (4) The board of county commissioners may pass a resolution of intention to create a zoning
14 district and to adopt zoning regulations for the district.

15 (5) The board of county commissioners shall publish notice of passage of the resolution of intention
16 once a week for 2 weeks in a newspaper of general circulation within the county. The notice ~~shall~~ must
17 state:

18 (a) the boundaries of the proposed district;

19 (b) the general character of the proposed zoning regulations;

20 (c) that the proposed zoning regulations are on file for public inspection at the office of the county
21 clerk and recorder;

22 (d) that for 30 days after first publication of this notice, the board of county commissioners will
23 receive written protests to the creation of the zoning district or to the zoning regulations from persons
24 owning real property within the district whose names appear on the ~~last-completed~~ last-completed
25 assessment roll of the county.

26 (6) Within 30 days after the expiration of the protest period, the board of county commissioners
27 may in its discretion adopt the resolution creating the zoning district ~~and/or~~ or establishing the zoning
28 regulations for the district; ~~but~~ However, if 40% of the freeholders within ~~such~~ the district whose names
29 appear on the ~~last-completed~~ last-completed assessment roll or if freeholders representing 50% of the titled
30 property ownership WHOSE PROPERTY IS TAXED FOR AGRICULTURAL PURPOSES UNDER 15-7-202(2)(A)

1 OR WHOSE PROPERTY IS TAXED AS FOREST LAND UNDER TITLE 15, CHAPTER 44, PART 1, shall have
2 protested the establishment of the district or adoption of the regulations, the board of county
3 commissioners ~~shall~~ may not adopt the resolution and ~~no~~ a further zoning resolution ~~shall~~ may not be
4 proposed for the district for a period of 1 year."

5 -END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON HOUSE BILL 358

Call to Order: By CHAIRMAN TOM BECK, on April 7, 1995, at 11:00 a.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck (R)
Sen. Dorothy Eck (D)
Sen. Don Hargrove (R)
Rep. Shiell Anderson (R)
Rep. William M. "Bill" Ryan (D)
Rep. Cliff Trexler (R)

Members Excused: none

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Secretary

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

Discussion:

CHAIRMAN BECK said that the amendment in the Senate was put on by him as SEN. LYNCH had originally amended the bill but he had some concern about forest lands. He wanted to make sure that it was included in the bill and he asked REP. TREXLER if he had any problems with that. REP. TREXLER said he had no problem.

CHAIRMAN BECK said that the only thing he had heard was that on the amendment 2(a) had to be stricken as it was only 20 acres of land under 2(a) and the amendment needs to be for agriculture land. He asked the committee if 2(a) was eliminated from the bill if that would suffice?

REP. CLIFF TREXLER added that the way it was written if you had a couple of 20 acre tracts among a lot of tracts of various sizes, those two 20 acre tracts can control everything and it seemed to be an oversight.

Susan Fox said that 2(a) refers to parcels owners, or the owners agent, markets not less than \$1,500 annual gross income from the.

raising of agricultural products. That statement may be very limited. If 2(a) were to be struck, it would make all the provisions under 15-7-202 applicable.

CHAIRMAN BECK said they were going to strike page 2 line 30 after the 202 "2(a)".

REP. SHIELL ANDERSON asked why it was inserted "who's property is taxed for agricultural purposes"?

CHAIRMAN BECK said that SEN. LYNCH was concerned about major companies saying if they had a big parcel of land and they could control zoning regulations with that purpose. SEN. LYNCH wanted to specify that it could not be a major company.

SEN. HARGROVE asked if they had seen the concerns about Ashgrove and that was what SEN. LYNCH was concerned about.

REP. BILL RYAN said that SEN. LYNCH referring to the Anaconda Company, they would have controlled everything and no zoning would have taken place.

SEN. DOROTHY ECK said the amendment was looking at company towns.

CHAIRMAN BECK said if the land was classified for agriculture purposes there would not be a problem.

REP. ANDERSON asked if 2(a) was taken out would that include all land taxed as agriculture land?

Ms. Fox said that everything eligible for land valuation as agriculture would be under the different provisions.

CHAIRMAN BECK said the reason he came back with the amendment on property taxed as forest land, one of the zoning regulations was for aesthetic purposes and he wanted to make sure it was included in the amendment.

Motion: SEN. HARGROVE MOVED TO STRIKE "2(a)" FROM THE HB 358.

Discussion:

REP. ANDERSON asked if anyone from Ashgrove or any other group speak on the bill?

CHAIRMAN BECK said that there was no representatives at the Senate committee meeting and the amendment was made on the floor so there was no possibility for Ashgrove to discuss the amendment.

REP. TREXLER said that in 15-7-202, 1(b), it said, "the land is not devoted to residential, commercial, or industrial use". People in that nature are already covered under the agricultural part of the law. He said he thought they were getting excited

about something they did not need to be excited about. He continued that they have accomplished everything for everyone by making it agricultural and forester land.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: REP. RYAN MOVED ADOPTION OF THE COMMITTEE REPORT.
THE MOTION CARRIED UNANIMOUSLY.



CONFERENCE COMMITTEE

on House Bill 358
Report No. , April 7, 1995

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Conference Committee on **House Bill 358** met and considered House Bill 358 and recommend that **House Bill 358** (reference copy -- salmon) be amended as follows:

1. Page 2, line 30.
Strike: "(2)(A)"

We recommend that the amendment considered above to House Bill 358 be acceded to by the senate.

And this Conference Committee report be adopted.

For the House:

Anderson

Richard W. Anderson

Chair

Ryan

Cliff Trexler

Trexler

Mike Ryan

For the Senate:

Beck

Tom Beck

Chair

Hargrove

Don Hargrove

Eck

Donna Eck

ADOPT

REJECT

HB 358

CCR#1

801254CC.Hbk

67

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5 -END-

